

REMARKS

The application has been thoroughly reviewed in light of the Office Action dated October 31, 2005. Claims 1-5, 8, 10, 20, 22, 37-38, 40 and 41 remain pending. Claims 1, 8, 10, 20, 22, 37, 38, 40 and 41 are independent. Claims 6, 7, 9, 11-19, 21, 22-36, 38, 39 and 42-50 were previously canceled without prejudice and/or disclaimer of subject matter. Each of the issues raised in the outstanding Office Action are addressed below.

§102 Rejection

Claims 1, 3, 5, 8, 10, 20, 37, 40 and 41 were rejected under 35 U.S.C. §102 as reciting subject matter that is allegedly anticipated by U.S. published patent application no. 2004/0133653, to Defosse et al. ("the '653 publication"). The Examiner alleges that the '653 publication discloses all the features disclosed in the pending independent claims. In particular, the Examiner alleges that the '653 publication discloses a vending machine 12 with a DEX interface 22 and a multi-drop-bus interface 26, an Enabler comprising a wireless data network transceiver (audit device 18 equipped with a wireless transceiver; paragraph 22, lines 4-6), a card reader for entering credit card account information (paragraph 18) and a micro-controller 24 in communication with the transceiver and connected to the multi-drop-bus 26.

Applicants respectfully submit that the the '653 publication claims the benefit of U.S. provisional application No. 60/429,756 ("the '756 provisional") entitled "System and Method for Wireless Audit and Cashless Transaction Transport" filed Nov. 27, 2002 by Erin M. Defosse and also claims the benefit of U.S. provisional application No. 60/480,626 ("the '626 provisional") entitled "System and Method for Auditing a Vending Machine" filed June 23, 2003 by Erin M. Defosse. The Defosse et al. reference is also a continuation-in-part (CIP) of U.S. patent application no. 09/971,170 (U.S. published application no.

20020016829; "the '829 publication") filed on Oct. 4, 2001 by Erin M. Defosse and entitled "Remote Data Acquisition, Transmission and Analysis System Including Handheld Wireless Equipment". The '170 application is also a CIP of U.S. patent application no. 09/267,254 filed on Mar. 12, 1999 by Erin M. Defosse and entitled "Wide Area Network Operation's Center that Sends and Receives Data from Vending Machines," which is now U.S. Pat. No. 6,457,038.

To that end, Applicants note that the information in the '653 publication relied upon by the Examiner in the present prior art rejection relates only to new embodiments which were added at the time of filing of the '653 publication (November 26, 2003). While not acknowledging the content and scope of the newly added information, Applicants submit that these new embodiments may only be entitled to filing dates of the '756 provisional, filed November 27, 2002, and the '626 provisional, filed June 23, 2003. Moreover, the disclosure of the '829 publication, being the first parent application of the '653 publication, does not include the noted information relied upon by the Examiner. In that regard, Applicants hereby enclose copies of the '756 and '626 provisionals (Exhibits A and B, respectively) as well as a copy of the '829 publication (Exhibit C) for the Examiner convenience to verify Applicants position.

Accordingly, without taking into consideration the priority dates of the present application (the earliest of which is January 29, 2001), the filing date of the present application (January 29, 2002) is prior to the earliest priority date of either of the '756 and '626 provisionals. Accordingly, Applicants respectfully request that '653 publication be removed as prior art to the present application, and the prior art rejection be withdrawn.

With regard to the rejection of claims 2, 4 and 9 under 35 U.S.C. §103, Applicants submit that this rejection is now moot in view of the removal of the '653 publication as prior art.

Appl. No.: 10/059,939
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Reply to Office Action of October 31, 2005

CONCLUSION

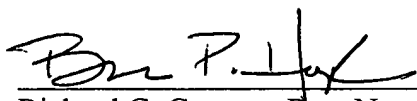
In view of the foregoing remarks, Applicants respectfully submit that all issues raised in the October 31, 2005 Office Action have been addressed and request favorable reconsideration of the present application. Since the '653 publication is no longer available as prior art to the present application, Applicants respectfully submit the currently pending claims of the present application are in condition for allowance for the reasons set out in Applicants response of July 26, 2005.

No fees for responding to the outstanding Action are believed due with this response. In the event that it is determined that additional fees are due, however, the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. **50-0311**, Ref. No. 28589-022 (formerly 21958-022), Customer No. **35437**.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 935-3000. All correspondence should be directed to our New York office address, which is given below.

Respectfully submitted,

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